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5 IN THE UNITED STATES DISTRICT COURT

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9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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LUIS HERRERA,

Petitioner,

No. C 08-0730 WHA

v.

15 UNITED STATES OF AMERICA,

**ORDER TO SHOW CAUSE**

16 Respondent.  
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Defendant Luis Herrera filed an application to file a second successive Section 2255 motion with our court of appeals in June 2016. He filed the application *pro se*, along with an attached motion to vacate. In April 2017, our court of appeals granted the application and ordered the motion to vacate be filed with this Court. Herrera subsequently filed his motion.

On June 14, Herrera was assigned counsel, and his counsel moved to amend his Section 2255 motion pursuant to FRCP 15(a)(2), allowing a party to amend a pleading “when justice so requires.” Rule 15(a)(2) applies to Section 2255 proceedings through the provision in Rule 12, Rules Governing Section 2255 Proceedings, which states that “The Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.” Herrera’s counsel argues that justice requires amendment because the issues in this action are complex and would benefit from attorney briefing, and because Herrera filed his petition almost a year ago and there have since been developments in the law, which bear directly on his petition.

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**United States District Court**

For the Northern District of California

1           The Court is inclined to grant Herrera's motion to amend. The government shall **SHOW**  
2           **CAUSE** by **JUNE 22** why the motion should not be granted.

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4           **IT IS SO ORDERED.**

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6           Dated: June 20, 2017.

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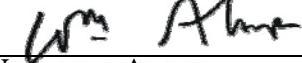
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE